

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

<b>IN THE MATTER OF:</b>	)	<b>Docket No. RCRA-08-2004-0005</b>
	)	
<b>U.S. Department of Interior,</b>	)	<b>CONSENT AGREEMENT</b>
<b>Bureau of Indian Affairs,</b>	)	
<b>Rocky Mountain Region and</b>	)	
<b>Blackfeet Agency,</b>	)	
	)	
<b>Facilities Management and</b>	)	
<b>Roads Complex Facility,</b>	)	
	)	
<b>Respondent.</b>	)	

Complainant, United States Environmental Protection Agency, Region 8 ("EPA") , and Respondent, U.S. Department of Interior, Bureau of Indian Affairs ("BIA") (hereafter referred to collectively as "the Parties"), by their undersigned representatives, hereby consent and agree as follows.

**FACTUAL AND PROCEDURAL BACKGROUND**

1. On June 16, 2004, Complainant issued Respondent a Complaint and Notice of Opportunity for Hearing ("Complaint") pursuant to sections 3008(a) and 6001 of the Solid Waste Disposal Act, as amended by and hereafter referred to as the Resource Conservation and Recovery Act and subsequent amendments ("RCRA" or "the Act"), 42 U.S.C. §§ 6928(a) and 6961. The Complaint alleged that Respondent's Blackfeet Agency, Facilities Management and Roads Complex facility, was in violation of RCRA subtitle C, 42 U.S.C. §§ 6901-6991, its implementing regulations, and the used oil requirements set forth at 40 C.F.R. part 279. The Complaint proposed a civil penalty for the violations alleged.

2. Respondent admits the jurisdictional allegations of the Complaint and the Consent Agreement and neither admits nor denies the specific factual allegations of the Complaint and the Consent Agreement.

3. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint or the Consent Agreement.

4. This Consent Agreement contains all terms of the settlement agreed to by the Parties. Upon incorporation into a final order, this Consent Agreement applies to and is binding upon Respondent, its officers, directors, employees, agents and all persons acting under or for Respondent, until such time as the civil penalty required under paragraph no. 6 has been paid. This Consent Agreement upon incorporation into a final order shall constitute full civil settlement of the violations alleged in the Complaint.

5. Respondent's Blackfeet Agency Facilities Management and Roads Complex facility is currently in compliance with RCRA subtitle C , 42 U.S.C. §§ 6901-6991, and the used oil requirements codified at 40 C.F.R. part 279.

6. Pursuant to section 3008(g) of RCRA, 42 U.S.C. § 6928(g), the nature of the violations, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of thirty-four thousand three hundred eighty-one dollars (\$34,381).

#### **TERMS OF SETTLEMENT**

7. Respondent consents to the issuance of the Consent Agreement and consents, for the purposes of settlement and without admitting any of the allegations in the Complaint not heretofore admitted, to the payment of the civil penalty cited in paragraph no. 6.

8. Within thirty (30) days after Respondent's receipt of a signed final order in this matter, Respondent shall make payment by Intra-Governmental Payment and Collection System ("IPAC") in the amount of thirty four thousand three hundred eighty one dollars (\$34,381) to EPA's Agency Location Code: 68011008.

9. A copy of the IPAC report shall be simultaneously provided to:

Tina Artemis, Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
999 19th Street, Suite 300  
Denver, Colorado 80202-2466

and to:

Amy Swanson, Attorney  
Legal Enforcement Program (8ENF-L)  
U.S. EPA Region 8  
999 19th Street, Suite 300  
Denver, Colorado 80202-2466

10. Respondent agrees and consents that if it fails to pay the penalty amount on the due date set forth in paragraph no. 8 above, interest on the penalty amount shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of twenty dollars (\$20.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of ten dollars (\$10.00) imposed for each subsequent 30-day period until the payment due is made. In addition, an interest rate of six percent (6%) annum per penalty shall be applied on any principal amount not paid within ninety (90) days after receipt of the final order.

#### **GENERAL PROVISIONS**

11. The Parties agree to resolve all disputes regarding the provisions of this Consent Agreement through dispute resolution proceedings as defined and governed by 5 U.S.C. Section 571 et seq., in recognition that timely resolution of disputes is essential to the overall goal of environmental compliance. All disputes arising under this Agreement that cannot be resolved informally amongst the Parties shall be submitted to a neutral available through the Federal Mediation and Conciliation Service or other available DOI or EPA agency dispute resolution techniques. The term “dispute” is intended to be interpreted broadly, including but not limited to disagreements over payment amount(s) and deadlines. Reimbursement of and general compensation for the neutral shall be paid equally by all Parties involved in each individual dispute referred for resolution.

12. This Consent Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.

13. Nothing in this Consent Agreement shall relieve Respondent of the duty to

comply with RCRA and its implementing regulations.

14. Nothing in this Consent Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with a collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

15. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement.

16. The Parties agree to submit this Consent Agreement to the presiding officer with a request that it be incorporated into a final order.

17. Each party shall bear its own costs and attorneys fees in connection with this matter.

18. This Consent Agreement, upon incorporation into a final order by the presiding officer and full satisfaction by the Parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

19. This Consent Agreement shall become effective upon filing with the presiding officer.

**SO CONSENTED TO AND AGREED:**

UNITED STATES DEPARTMENT OF THE  
INTERIOR, BUREAU OF INDIAN AFFAIRS,  
Respondent.

Date: 9/21/04

By: Richard J. Stefonic (Acting for/)  
Keith M. Beartusk, Regional Director  
Rocky Mountain Regional Office

UNITED STATES ENVIRONMENTAL

PROTECTION AGENCY, REGION 8,  
Complainant.

Date: 9,28,04

By: SIGNED  
John F. Wardell, Director  
Montana Office

Date: 29 Sept. 04

By: SIGNED  
Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Date: 9.29.04

By: SIGNED  
Amy Swanson, Enforcement Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON  
OCTOBER 6, 2004.**

